

31/07-04A 10221 Menlo Ave
Capitol View Park Historic District

31/07-04A

10221 Menlo Ave
Capitol View Park H.D.

1 MS. O'MALLEY: All right, our next case will be
2 Case I. Do we have a Staff report?

3 MS. FOTHERGILL: Yes, and I want to show you some
4 slides. This is a retroactive case. This is the Lang House
5 at 10221 Menlo Avenue in the Capitol View Historic District.
6 It is a primary resource in the district. It sits at the
7 edge of the district next to parkland and actually across
8 the street is not the historic district.

9 The applicant is here and will explain what
10 happened but some trees on the property came down last
11 summer and fall due to heavy rain and Hurricane Isabel, and
12 after that at some point the applicant also took down four
13 trees; a 13-inch box elder, a 25-inch box elder, 15-inch box
14 elder and an 18-inch maple, and had not applied for an
15 Historic Area Work Permit.

16 Someone called this violation in to the Department
17 of Permitting Services who sent an inspector and they issued
18 a stop work order and through a process of visits from the
19 inspector and citations, the -- it actually went to court
20 where it was determined that the applicant needed to apply
21 for a Retroactive Historic Area Work Permit to be in
22 compliance with the consent order for the -- and that is
23 what we are doing tonight. And I am going to show you some
24 visuals of the trees that were removed and what steps we're
25 recommending.

1 This is the house. And you can see in Circle 8,
2 the applicant has done a good map showing which trees came
3 down and which were taken down and in this site plan in
4 Circle 8, trees 3, 4, 5, and 7 were taken down. And this is
5 the side of the house and these are some of the trees that
6 were taken down. And some -- and this is actually not my
7 photo, but one taken by the DPS inspector a few months ago.

8 This case has sort of been muddied by the fact
9 that because there are so many trees down on the property
10 and when they would even try to cut up the tree trunks that
11 were down, every time they tried to do any clearing or
12 cutting up of the tree trunks, someone would call in to the
13 inspector, so there have been a number of visits. But only
14 -- the applicant did not take trees down after the first
15 visit by the inspector.

16 The -- because the trees are down and there's
17 nothing we can do about that, the recommended condition of
18 approval is that the applicant plant four new trees to
19 replace the four trees that were removed. It is a pretty
20 heavily wooded site and I don't know necessarily that we
21 recommend more than four trees. And also I bring to your
22 attention that there was a letter from a neighbor right next
23 door to the Commission that came in after the staff report
24 and has been distributed to all of you.

25 Does anyone have any questions for Staff or the

1 property owner is here.

2 MR. FULLER: Question for staff. Let me just be
3 clear. Your report, this HAWP and the citations; none of
4 those address the three trees that came down through Isabel
5 and the storms.

6 MS. FOTHERGILL: That -- yeah, I mean if a tree
7 falls down, so you don't --

8 MR. FULLER: So, that is not the subject of the --
9 of testimony we're going to hear tonight or its subject --
10 it's not the subject of anything we're here to talk about
11 tonight. The only thing we're talking about are the four
12 trees that came down after Isabel, so we really should focus
13 any of our attention and any of the testimony purely on the
14 second group of trees; the four that were taken down, not
15 the three.

16 MS. FOTHERGILL: Correct.

17 MS. O'MALLEY: Would the applicant like to come
18 forward?

19 MR. LANG: Would you like us over here?

20 MS. O'MALLEY: Just the front table. As the
21 applicant, you have seven minutes to say whatever you like.
22 If you'll state your name for the record?

23 MR. LANG: My name is James Lang. You may have
24 heard this place referred to as the Lang House. I am what's
25 left of the Langs, and this is my first cousin, Patricia

1 Monahan-Brill, who lives across the street and who now is
2 the owner of the property and who is the applicant. I am
3 also an attorney and as has been mentioned in some report
4 that I read, that future things may be planned for this --
5 by us for this area. I would like everyone to know that I
6 am also a historian and writer of the American Civil War.
7 So, the things I like, you folks may like yourselves.

8 But that's for the future; right now we're
9 discussing these four trees, some of which, as I understand
10 it, I believe you have an arborist report among your
11 documents there. As I understand it, some of these trees
12 which were taken down, which had not already been knocked
13 down by the wind or rain, were not healthy trees. They were
14 trees that were either leaning on other trees and being
15 supported that way or found to be in an unhealthy condition,
16 especially after they cut down and you could see. As I say,
17 I think you'll find it was not -- it was not --
18 deforestation was not the idea of any of this. The idea was
19 simply to get rid of: A, fallen; and B, unhealthy or ready-
20 to-fall trees.

21 MS. O'MALLEY: Have you seen the staff report?

22 MR. LANG: Yes, ma'am; I have.

23 MS. O'MALLEY: Are there any questions? Is there
24 a motion?

25 MR. FULLER: I make a motion that we approve the

1 HAWP for 10221 Meleno Avenue, Case No. 31/07-04A as approved
2 with the staff report with the one condition to replant four
3 replacement trees.

4 MS. O'MALLEY: Is there a second?

5 MS. WILLIAMS: Second.

6 MS. O'MALLEY: All in favor, raise your right
7 hand. It's unanimous. Thank you very much.

8 MR. LANG: Oh, I may add -- I may add that we have
9 already picked out some of those -- some minor oaks that
10 will be transplantable.

11 MS. O'MALLEY: Wonderful.

12 MR. LANG: We've already done that because it is a
13 wooded lot and there are a lack of trees and I don't really
14 wish to correct anybody, but it's Menlo, like Thomas Edison
15 Menlo Park.

16 MR. FULLER: I can --

17 MS. WRIGHT: Okay, unfortunately, our applicant
18 for Case N does not appear to have arrived yet, so we can
19 move on to the preliminary consultations if you can give us
20 a couple minutes to set up our Powerpoint presentation.

21 MS. O'MALLEY: All right.

22 MS. WRIGHT: Okay. Again, I apologize for the
23 delay. We are postponing, for the moment, Case N, and
24 moving on to the preliminary consultations.

25 This preliminary consultation involves a

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
HISTORIC PRESERVATION COMMISSION

- - - - - X
HISTORIC AREA WORK PERMIT - : HPC Case No. 37/03-04R
7300 Holly Avenue :
- - - - - X
HISTORIC AREA WORK PERMIT - : HPC Case No. 35/13-04M
4 Newlands Street :
- - - - - X
HISTORIC AREA WORK PERMIT - : HPC Case No. 37/03-04S
7421 Cedar Avenue :
- - - - - X
HISTORIC AREA WORK PERMIT - : HPC Case No. 37/03-04T
608 Philadelphia Avenue :
- - - - - X
HISTORIC AREA WORK PERMIT - : HPC Case No. 18/08-04B
15130 Barnesville Road :
- - - - - X
HISTORIC AREA WORK PERMIT - : HPC Case No. 37/03-04U
33 Columbia Avenue :
- - - - - X
HISTORIC AREA WORK PERMIT - : HPC Case No. 35/13-04N
5 West Melrose Street :
- - - - - X
HISTORIC AREA WORK PERMIT - : HPC Case No. 23/102-04A
17510 Prince Phillip Drive :
- - - - - X
HISTORIC AREA WORK PERMIT - : HPC Case No. 36/02-04A
9310 Brookville Road :
- - - - - X
HISTORIC AREA WORK PERMIT - : HPC Case No. 31/06-04G
3915 Washington Street :
- - - - - X
HISTORIC AREA WORK PERMIT - : HPC Case No. 37/03-04U
10221 Menlo Avenue :
- - - - - X
PRELIMINARY CONSULTATION :
6901 Laurel Avenue :
- - - - - X
PRELIMINARY CONSULTATION :
51 W. Lenox Street :
- - - - - X
PRELIMINARY CONSULTATION :
3718 Bradley Lane :
- - - - - X

A meeting in the above-entitled matter was held on
April 28, 2004, commencing at 7:48 p.m., in the MRO

Auditorium at 8787 Georgia Avenue, Silver Spring, Maryland

20910, before:

COMMITTEE CHAIRMAN

Julia O'Malley

COMMITTEE MEMBERS

Kimberly Prothro Williams

David Rotenstein

Lynne B. Watkins

Nuray Anahtar

Steven Breslin

Lee Burstyn

Jef Fuller

ALSO PRESENT:

Gwen Wright

Michele Naru

Anne Fothergill

Tania Tully

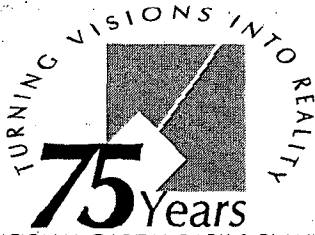
Clare Cavicchi

APPEARANCES

STATEMENT OF:

PAGE

Maureen O'Connell	26
James Lang	32
John Urciolo	42
Steven Spurlock	46
Joseph Wnuk	49
Lorraine Pearsall	57
Sabrina Baron	57
Wayne Goldstein	64
Thomas Manion	87
Alexander Boyle	92
George Kousoulas	94
Harry Lerch, Esquire	98
Jane Hartman	108
Roland Olsen	116




THE MARYLAND-NATIONAL CAPITAL PARK & PLANNING COMMISSION

Date: April 29, 2004

MEMORANDUM

TO: Robert Hubbard, Director

FROM: Gwen Wright, Coordinator 
Historic Preservation

SUBJECT: Historic Area Work Permit #339827

The Montgomery County Historic Preservation Commission (HPC) has reviewed the attached application for a Historic Area Work Permit (HAWP). This application was **APPROVED WITH CONDITION**. The condition of approval is:

- 1) The applicants will plant 4 trees somewhere on the property. The trees to be planted must be selected from the Montgomery County Native Species List.

The HPC staff will review and stamp the construction drawings prior to the applicant's applying for a building permit with DPS.

THE BUILDING PERMIT FOR THIS PROJECT SHALL BE ISSUED CONDITIONAL UPON ADHERENCE TO THE APPROVED HISTORIC AREA WORK PERMIT (HAWP).

Applicant: Patricia Monahan

Address: 10221 Menlo Avenue, Silver Spring, MD 20910

This HAWP approval is subject to the general condition that, after issuance of the Montgomery County Department of Permitting Services (DPS) permit, the applicant arrange for a field inspection by calling the Montgomery County DPS Field Services Office at 240-777-6210 or online at <http://permits.emontgomery.org> prior to commencement of work and not more than two weeks following completion of work



RETURN TO: DEPARTMENT OF PERMITTING SERVICES
255 ROCKVILLE PIKE, 2nd FLOOR, ROCKVILLE, MD 20850
240/777-6370

DPS - #8

HISTORIC PRESERVATION COMMISSION
301/563-3400

APPLICATION FOR HISTORIC AREA WORK PERMIT

RECEIVED
APR 05 2004
Dept. of Permitting Services
Division of
Casework Management

Eric

Contact Person: _____

Daytime Phone No.: _____

Tax Account No: 00996542

Name of Property Owner: Patricia A. Monahan Daytime Phone No.: 301-588-6456

Address 10221 Menlo Ave, Silver Spring, MD 20910
Street Number City State Zip Code

Contractor: _____ Phone No.: _____

Contractor Registration No.: _____

Agent for Owner: _____ Daytime Phone No.: _____

LOCATION OF BUILDING/PREMISE

House Number: 10221 Menlo Ave Street: Menlo

Town/City: Silver Spring Nearest Cross Street: _____

Lot: _____ Block: _____ Subdivision: _____

Liber: _____ Folio: _____ Parcel: _____

PART ONE: TYPE OF PERMIT ACTION AND USE

- 1A. CHECK ALL APPLICABLE:
- | | | | | | | | | |
|------------------------------------|----------------------------------|---|--|---|--|--|-------------------------------|-------------------------------|
| <input type="checkbox"/> Construct | <input type="checkbox"/> Extend | <input type="checkbox"/> Alter/Renovate | <input type="checkbox"/> A/C | <input type="checkbox"/> Slab | <input type="checkbox"/> Room Addition | <input type="checkbox"/> Porch | <input type="checkbox"/> Deck | <input type="checkbox"/> Shed |
| <input type="checkbox"/> Move | <input type="checkbox"/> Install | <input type="checkbox"/> Wreck/Raze | <input type="checkbox"/> Solar | <input type="checkbox"/> Fireplace | <input type="checkbox"/> Woodburning Stove | <input type="checkbox"/> Single Family | | |
| <input type="checkbox"/> Revision | <input type="checkbox"/> Repair | <input type="checkbox"/> Revocable | <input type="checkbox"/> Fence/Wall (complete Section 4) | <input checked="" type="checkbox"/> Other: <u>Court Order</u> | | | | |

1B. Construction cost estimate: \$ _____

1C. If this is a revision of a previously approved active permit, see Permit # _____

PART TWO: COMPLETE FOR NEW CONSTRUCTION AND EXTEND/ADDITIONS

2A. Type of sewage disposal: 01 WSSC 02 Septic 03 Other: _____

2B. Type of water supply: 01 WSSC 02 Well 03 Other: _____

PART THREE: COMPLETE ONLY FOR FENCE/RETAINING WALL

3A. Height _____ feet _____ inches

- 3B. Indicate whether the fence or retaining wall is to be constructed on one of the following locations:
- On party line/property line Entirely on land of owner On public right of way/easement

I hereby certify that I have the authority to make the foregoing application, that the application is correct, and that the construction will comply with plans approved by all agencies listed and I hereby acknowledge and accept this to be a condition for the issuance of this permit.

Patricia A. Monahan
Signature of owner or authorized agent

April 5, 2004
Date

Approved: 339827 ✓ w/one condition
For Chairperson, Historic Preservation Commission

Disapproved: _____ Signature: Julia O'Malley Date: 4-29-04

Application/Permit No.: _____ Date Filed: _____ Date Issued: _____

SEE REVERSE SIDE FOR INSTRUCTIONS

**THE FOLLOWING ITEMS MUST BE COMPLETED AND THE
REQUIRED DOCUMENTS MUST ACCOMPANY THIS APPLICATION.**

1. **WRITTEN DESCRIPTION OF PROJECT**

a. Description of existing structure(s) and environmental setting, including their historical features and significance:

b. General description of project and its effect on the historic resource(s), the environmental setting, and, where applicable, the historic district:

Fallen trees - see attached

2. **SITE PLAN**

Site and environmental setting, drawn to scale. You may use your plat. Your site plan must include:

- a. the scale, north arrow, and date;
- b. dimensions of all existing and proposed structures; and
- c. site features such as walkways, driveways, fences, ponds, streams, trash dumpsters, mechanical equipment, and landscaping.

3. **PLANS AND ELEVATIONS**

You must submit 2 copies of plans and elevations in a format no larger than 11" x 17". Plans on 8 1/2" x 11" paper are preferred.

- a. *Schematic construction plans*, with marked dimensions, indicating location, size and general type of walls, window and door openings, and other fixed features of both the existing resource(s) and the proposed work.
- b. Elevations (facades), with marked dimensions, clearly indicating proposed work in relation to existing construction and, when appropriate, context. All materials and fixtures proposed for the exterior must be noted on the elevations drawings. An existing and a proposed elevation drawing of each facade affected by the proposed work is required.

4. **MATERIALS SPECIFICATIONS**

General description of materials and manufactured items proposed for incorporation in the work of the project. This information may be included on your design drawings.

5. **PHOTOGRAPHS**

- a. Clearly labeled photographic prints of each facade of existing resource, including details of the affected portions. All labels should be placed on the front of photographs.
- b. Clearly label photographic prints of the resource as viewed from the public right-of-way and of the adjoining properties. All labels should be placed on the front of photographs.

6. **TREE SURVEY**

If you are proposing construction adjacent to or within the drieline of any tree 6" or larger in diameter (at approximately 4 feet above the ground), you must file an accurate tree survey identifying the size, location, and species of each tree of at least that dimension.

7. **ADDRESSES OF ADJACENT AND CONFRONTING PROPERTY OWNERS**

For **ALL** projects, provide an accurate list of adjacent and confronting property owners (not tenants), including names, addresses, and zip codes. This list should include the owners of all lots or parcels which adjoin the parcel in question, as well as the owner(s) of lot(s) or parcel(s) which lie directly across the street/highway from the parcel in question. You can obtain this information from the Department of Assessments and Taxation, 51 Monroe Street, Rockville, (301)279-1355).

PLEASE PRINT (IN BLUE OR BLACK INK) OR TYPE THIS INFORMATION ON THE FOLLOWING PAGE.
PLEASE STAY WITHIN THE GUIDES OF THE TEMPLATE. AS THIS WILL BE PHOTOCOPIED DIRECTLY ONTO MAILING LABELS.

HISTORIC PRESERVATION COMMISSION STAFF REPORT

Address:	10221 Menlo Avenue, Silver Spring	Meeting Date:	04/28/04
Resource:	Primary Resource Capitol View Historic District	Report Date:	04/21/04
Review:	HAWP	Public Notice:	04/14/04
Case Number:	31/07-04A RETROACTIVE	Tax Credit:	None
Applicant:	Patricia Monahan	Staff:	Anne Fothergill

PROPOSAL: Tree removal

RECOMMEND: Approval with one condition

STAFF RECOMMENDATION

Staff recommends that the Commission approve this HAWP application with the following condition:

1. The applicants will plant 4 trees somewhere on the property. The trees to be planted must be selected from the Montgomery County Native Species List.

PROJECT DESCRIPTION

SIGNIFICANCE: Primary Resource in the Capitol View Historic District (the Lange House)
STYLE: Vernacular
DATE: c. 1870-1916

BACKGROUND

The Lange House is at the edge of the Capitol View Historic District and sits next to parkland (see map in Circle **7**). The property includes two lots with the extra lot located between the Lange House and the Non-Contributing house next door at 10217 Menlo Avenue.

On the Lange House property three black locust trees came down late last summer and fall due to heavy rain and Hurricane Isabel. Subsequently, the applicant cut down four trees (13" boxelder, 25" boxelder, 15" boxelder, 18" maple) without applying for a Historic Area Work Permit. (See Circles **8+14** for arborist's report and tree location map—trees # 1, 2, and 6 fell down, trees # 3, 4, 5, 7 were taken down).

This violation (tree removal without a HAWP) was reported by a neighbor to the Montgomery County inspector who visited the site on October 21, 2003 and issued a Stop Work Order (see Circle **12**). After that date the applicant did not take down any more trees. The applicant then

called the Historic Preservation office to determine what steps to take and was told to get an arborist's report. Because arborists were so busy with the workload from Isabel, an arborist was unable to write the report until November 20, 2003. On November 19, 2003 a Civil Citation was issued because a HAWP had not yet been applied for (see Circle 13). At the court hearing on March 23, 2004, the applicant agreed to a Consent Order for Abatement requiring them to apply for a retroactive HAWP (see Circle 14).

Since the Inspector's visit, the applicant states that she has not cut down any more trees but when she used equipment to cut up some of the trees that are already down, a neighbor called this in as another violation. As a result, another inspector returned there on April 2, 2004 when the applicant was issued a Notice of Violation (see Circle 15). Once this HAWP is approved, the applicant plans to remove the tree trunks and debris that are strewn around the lot.

STAFF DISCUSSION

Staff used the *Secretary of the Interior's Standards for Rehabilitation* as a guide, specifically Standard # 2 which states:

The historic character of a property will be retained and preserved. The removal of distinctive materials or alterations of features, spaces, and spatial relationships that characterize a property will be avoided.

Trees play an important and valuable role in the environmental setting of historic districts, and they are often a distinctive feature in the historic character of a property. It is never optimal when exterior alterations to a historic property have already been completed and the HPC must review a retroactive Historic Area Work Permit application. In this case, what exactly has transpired is a little confusing, but the trees have already been removed and what staff is recommending is that the HPC require reforestation for the lost trees and reinforce the importance of protecting the remaining trees.

The applicant did not know that a HAWP was required for tree removal, and once she knew she stopped the tree removal and attempted to get an arborist's report so she could proceed with the HAWP application. The applicant resides directly across the street, where it is not a historic district. The historic Lange House has been in the applicant's family for a number of generations and is presently vacant. The applicant has development plans for the Lange House site and has approached staff to discuss these plans in the near future.

Since three trees came down on their own, the HPC would generally not require replanting for those trees. This is a heavily wooded site and there are numerous other trees on these lots. Staff would recommend as a condition of approval that the applicant plant four new trees for the four trees that were removed.

Staff recommends approval with one condition.

STAFF RECOMMENDATION

Staff recommends that the Commission *approve* the HAWP application as being consistent with Chapter 24A-8 (b) 2:

The proposal is compatible in character and nature with the historical, archeological, architectural or cultural features of the historic site or the historic district in which an historic resource is located and would not be detrimental thereto or to the achievement of the purposes of this chapter,

and with the Secretary of the Interior's *Standards for Rehabilitation* #2:

The historic character of a property will be retained and preserved. The removal of distinctive materials or alterations of features, spaces, and spatial relationships that characterize a property will be avoided

and with the condition that:

1. The applicant will plant 4 trees somewhere on the property. The trees to be planted must be selected from the Montgomery County Native Species List.

and with the general condition applicable to all Historic Area Work Permits that **the applicant will present 3 permit sets of drawings to HPC staff for review and stamping prior to submission for permits (if applicable)**. After issuance of the Montgomery County Department of Permitting Services (DPS) permit, the applicant will arrange for a field inspection by calling the DPS Field Services Office at 240-777-6370 prior to commencement of work and not more than two weeks following completion of work.

The house and yard border park property and are in deep woods. Three quarters of the year, the heavy growth of trees and vines has prevented clear views into the property from the street level. The yard inclines steeply downhill away from the street.

Heavy rains during the Spring and Summer of 2003 caused flooding and trees to fall throughout the area. In mid-August 2003, the first and second locust trees listed in the Arborist's Tree Inspection Report, fell downhill away from the street, smashing two sections of chain-link fence. Few people would have noticed that they had fallen. Both the trees and the sections of smashed fence were not readily visible from outside the property due to the deep over-growth of leaning trees covered with English Ivy. Two baby woodpeckers were rescued from the first locust tree that split and fell. About a week after we started feeding the baby birds, the second listed locust tree fell over entirely, smashing a second section of chain-link fence.

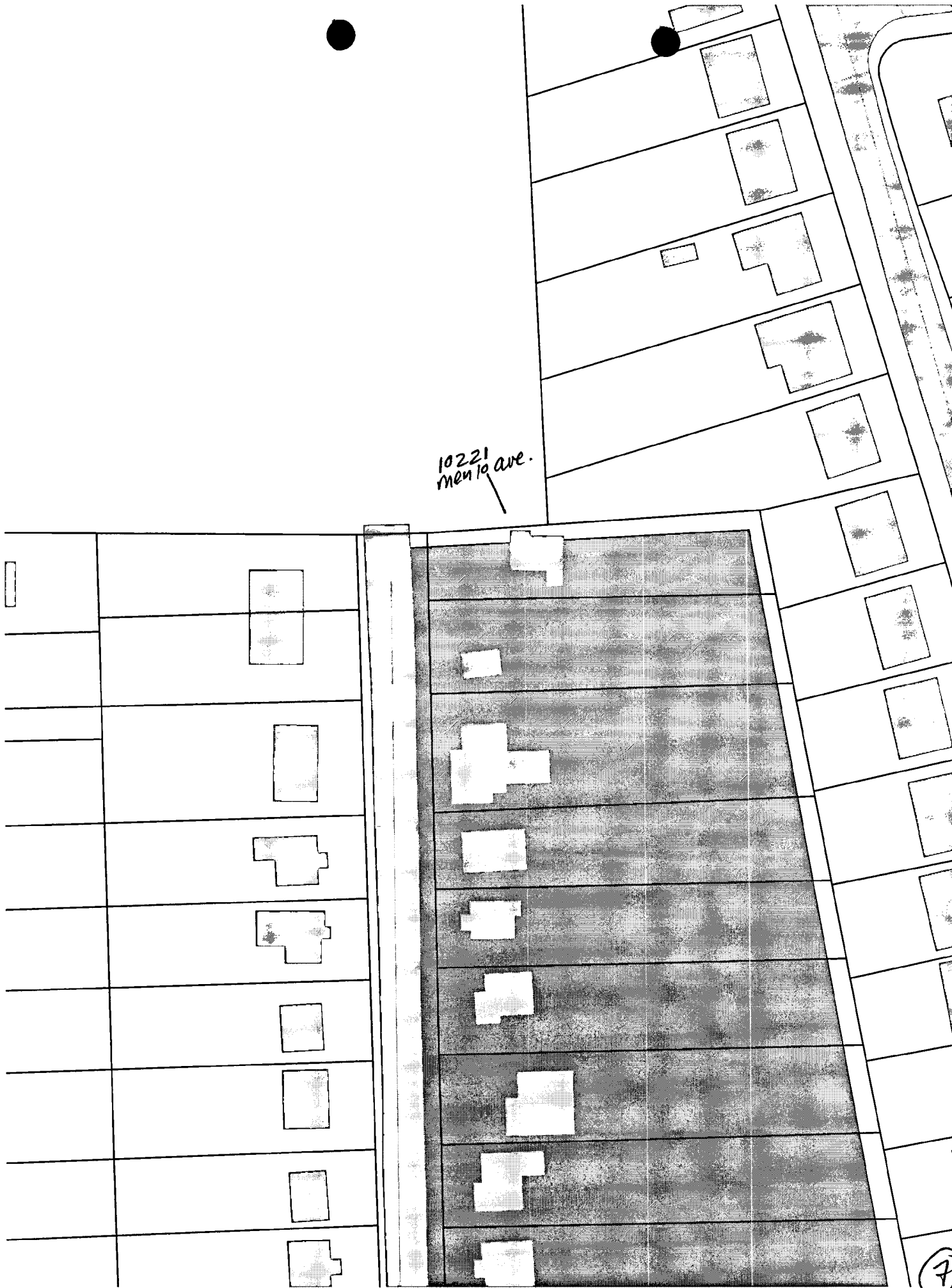
According to the Arborist's report the third tree, a 25" boxelder had grown from under the driveway, causing heaving of the surface. The fourth 13" boxelder's stump appeared healthy to the Arborist, but it's top was hopelessly entangled with the sixth and seventh trees listed on the Arborist's report, the uprooted 20" locust and the damaged 18" maple. The fifth tree listed on the Arborist's report had leaned way over the front right of the house – too much horizontal load. The eighth item listed mentions five (5) boxelders all under 6" in diameter. The ninth tree listed in the Arborist's report is still standing, but leans over the house. It is entirely covered (smothered) with English Ivy. The Arborist has recommended removal.

A huge locust tree that uprooted and took the top of the chimney down and damaged the roof of the house during Hurricane Isabel was not mentioned in the Arborist's report. The base of the tree was on a neighbor's property located adjacent to the house just outside of the Historical Preservation Area.

This area is very heavily wooded and within a few hundred feet and a few hundred yards in several directions fallen trees can still be seen. This block of Menlo Avenue was without power for a total of eight (8) days before and after Hurricane Isabel, due to the a clump of trees falling twice on the power lines in front of 10203 Menlo. The park department does not need to remove fallen trees and many of the neighbors have not done any removal either.

In conclusion, the trees fell down on their own or were falling over before clean-up began.

10221
men 10 ave.



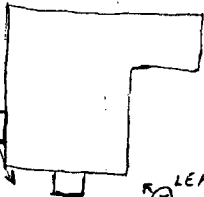


LOCUST
FELL ON
HOUSE
FROM
OUTSIDE
HISTORIC
AREA

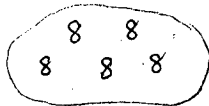


STANDING
BOXELDER
LEANING

9



LEANING
5



FELL

2

FELL

1

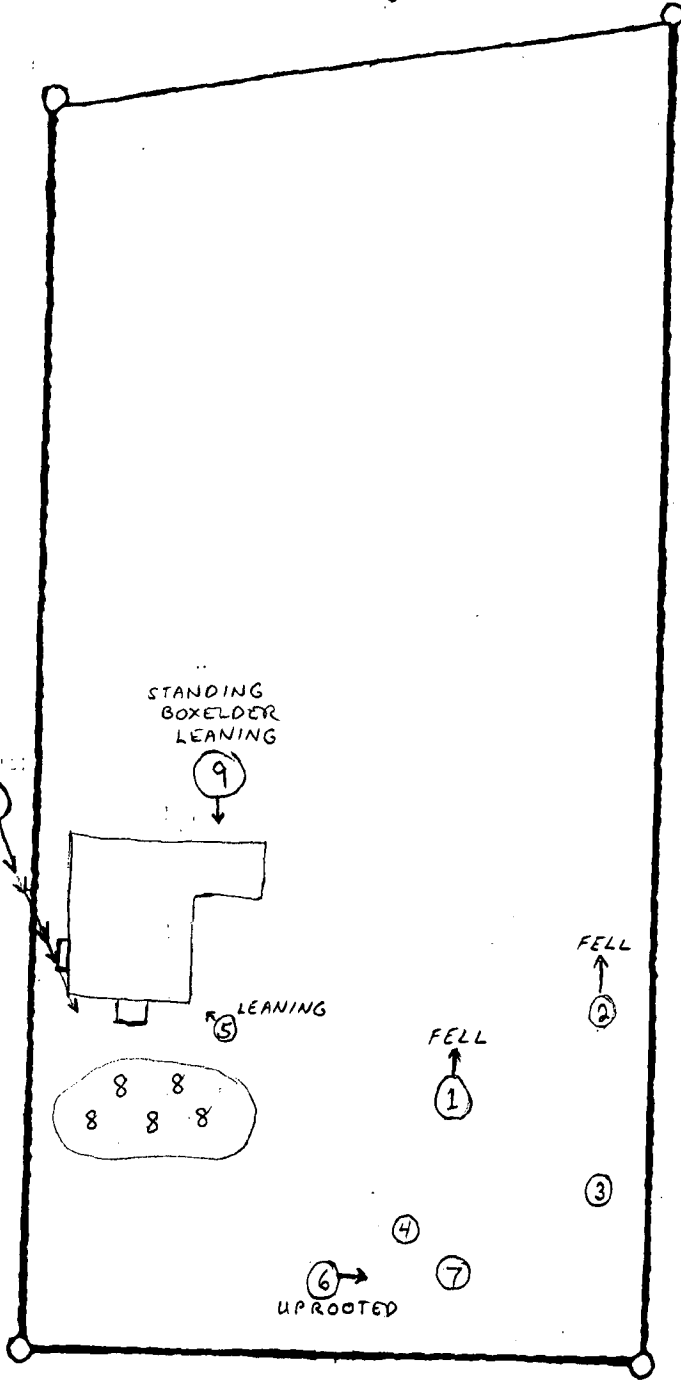
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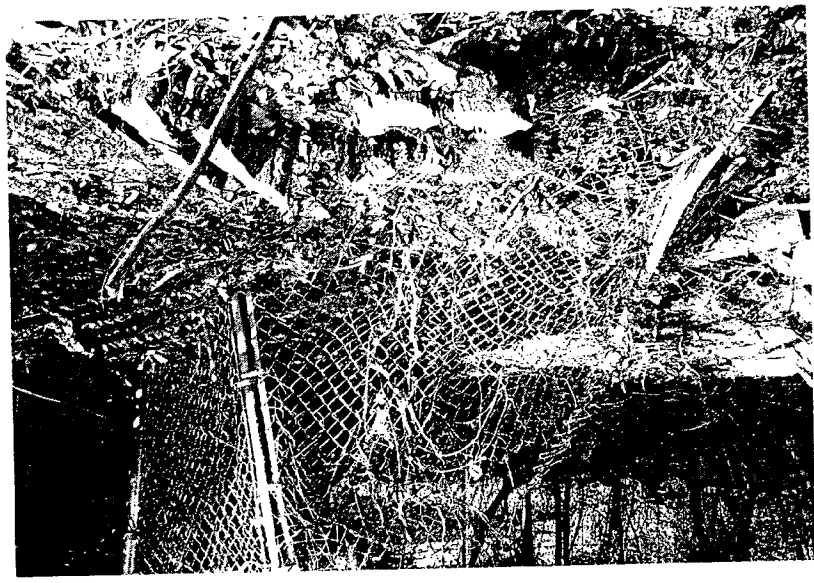
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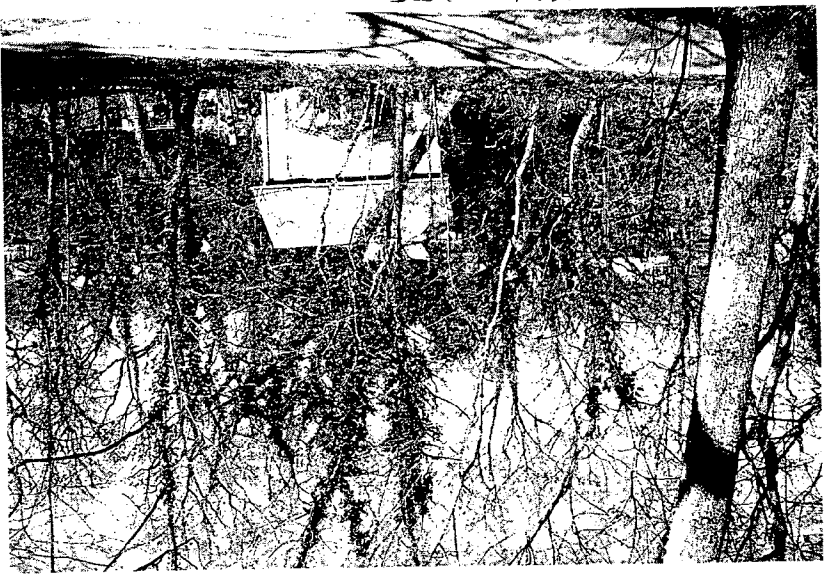
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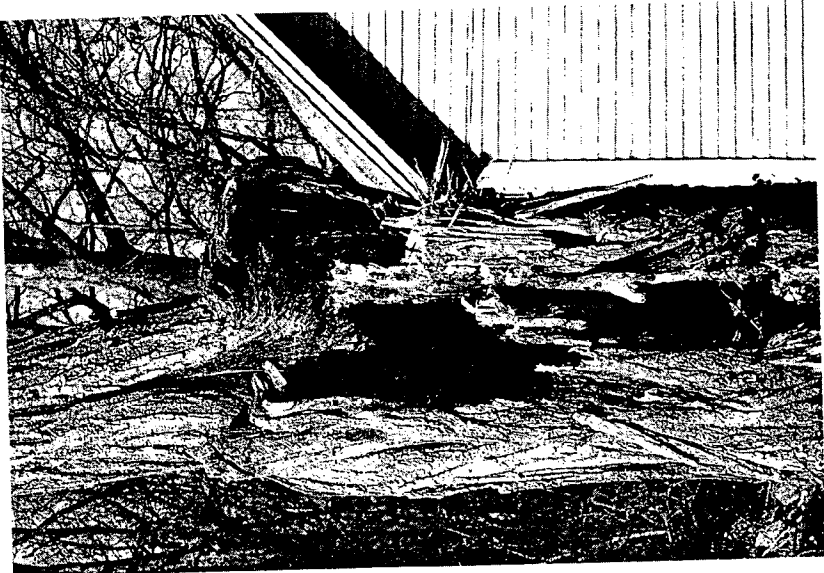
FROM STREET



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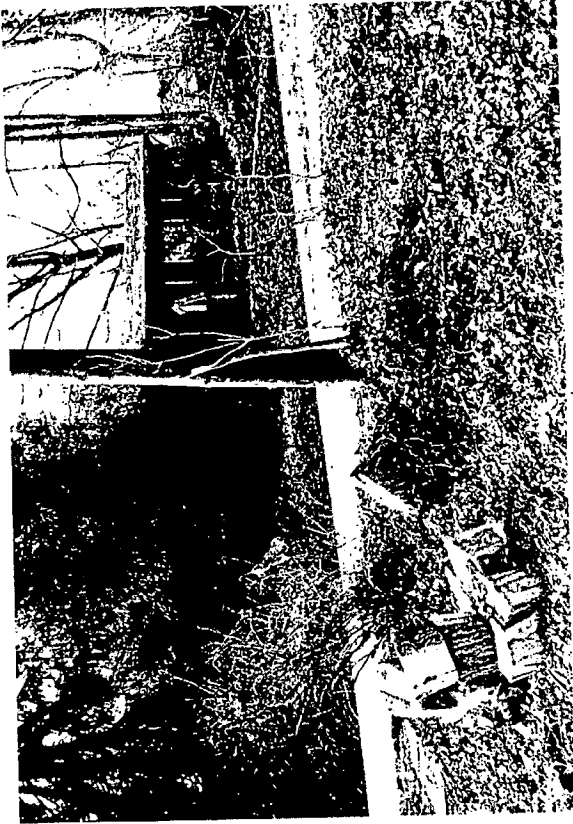


1





#6



#6





#6



#6



#9

	MONTGOMERY COUNTY DEPARTMENT OF PERMITTING SERVICES 255 Rockville Pike, 2nd Floor Rockville, Maryland 20850 - 4166	<h1>STOP WORK ORDER</h1>
	Permit # <u>NONE</u> Address <u>10221 MENLO AVE.</u>	
OFFICIAL NOTICE - DO NOT REMOVE		
<p>All construction activities on these premises and within all covered by the referenced permit must cease immediately. Only those activities required to correct violations and authorized by the official issuing this notice may continue.</p> <p style="text-align: center; font-size: 1.2em;"><u>STOP CUTTING DOWN TREES</u></p> <p>A violation of the Montgomery County Code, Chapter <u>§ 24</u> Section(s), <u>24A-6a)(2)</u> exists on this site. The permittee must complete all corrective action as detailed in the Notice of Violation issued in conjunction with this order and obtain approval from the issuing inspector or his/her supervisor to resume work.</p>		
<p>When corrective action is completed and you wish to resume work, contact at to schedule a reinspection.</p>		
Date/Time: <u>10-21-03</u> <u>1:30 PM</u>	Inspector: <u>PEPE HRYCIK</u>  Director, Department of Permitting Services	Phone: <u>240-777-5211</u>
<p>This order may be appealed within 30 days to the Montgomery County Board Of Appeals.</p>		

7510001 F311

UNIFORM CIVIL CITATION

5233755083

WITNESS

RELATED CITATION →

District Court of Maryland for

MONTGOMERY COUNTY

DPS

County/Municipality

Agency

Defendant's (Last) Name

First

Middle

Current Street Address

Apt. No.

City

State

Zip Code

DOB

Height

Weight

Sex

Race

Hair

Eyes

Telephone No. Day

Telephone No. Night

Based on personal knowledge of the undersigned officer the attached affidavit, the defendant is charged with ALTERING THE ENVIRONMENTAL SETTING (CUTTING DOWN TREES) VIOLATION OF A HISTORIC AREA WORK PERMIT at 10221 on 10/21/03 at 10221 MENLO AVE in violation of: Md. Ann. Code Municipal Infraction/County Ordinance/Public Local Law/Local Code COMAR Document/Article 24A Section 6 Sub Section (a) Paragraph (2)

Each day a violation continues is a separate WSSC infraction subject to an additional citation.

I sign my name as a receipt of a copy of this Citation and not as an admission of guilt. I will comply with the requirements set forth in this Citation.

X Defendant's Signature SENT certified mail

INSTRUCTIONS

YOU MUST APPEAR IN COURT. A notice of trial date will be mailed to you.

YOU MAY PAY A FINE OF \$ 500 by 12-2-03 to the District Court ROCKVILLE ATTORNEY OFFICE at 101 MANSARD ST ROCKVILLE Md and AVOID TRIAL. This will be deemed an admission of guilt and a trial date will not be set.

YOU MAY ELECT TO STAND TRIAL. DO NOT SEND PAYMENT OF FINE. Notify COUNTY ATTORNEY OFFICE in writing by 12-2-03 at 101 MANSARD ST ROCKVILLE MD 20850. The District Court will mail you a notice of your trial date and location. AT TRIAL the Court may impose a fine up to \$ 500 plus court costs.

IN ADDITION: MONTGOMERY COUNTY MD is seeking abatement of this infraction. You may be ordered to abate this infraction or be assessed the costs for the abatement, as well as a fine of up to \$1,000, plus court costs.

FAILING TO APPEAR OR PAY THE FINE MAY RESULT IN A WARRANT BEING ISSUED FOR YOUR ARREST.

FAILING TO PAY THE FINE OR REQUEST A TRIAL DATE: will deem you liable for the fine assessed; the fine may be doubled and/or a judgment on affidavit may be entered against you including an order of abatement.

FAILURE TO APPEAR FOR A REQUESTED TRIAL DATE: the fine may be doubled and a judgment on affidavit entered against you.

I solemnly affirm under the penalties of perjury, and based upon personal knowledge or the attached affidavit, that the contents of this citation are true and that I am competent to testify on these matters. The defendant is not now and has not been within the preceding 30 days, in the military service as defined in the Soldier's and Sailor's Civil Relief Act of 1940, as amended.

Officer's Signature

Officer's Printed Name

Date

DPS

178

240-777-5211

Agency

Sub-Agency

I.D. No.

Phone

DC 28 (Rev. 10/2001) Print Date (1/2002)

DEFENDANT'S COPY



Bartlett Tree Experts

TREE & SHRUB CARE PROPOSAL

12200 Nebel Street, Rockville MD 20852 – 301-881-8550 Fax 301-881-9063

Mr. Patricia Monhan
1022 Menlo Avenue
Silver Spring MD 20910

November 20, 2003

TREE INSPECTION

- ① Black Locust tree (25") in right front:
 - Tree split. Three has rot in crotch.
- ② • Black Locust tree (multi-trunk) in right rear:
- ③ Boxelder tree (25") in right front:
 - Damaging driveway.
- ④ Boxelder tree (13") in right front:
 - Tree is healthy.
- ⑤ Boxelder tree (15") in right front:
 - Tree leans over house to much horizontal load.
- ⑥ Black Locust tree (20") in right front:
 - Tree uprooted and fell into maple tree.
- ⑦ Maple tree (18") in right front:
 - Tree damaged by uprooted locust tree.
- ⑧ Five (5) Boxelder trees in front:
 - Tree all under 6" in diameter.
- ⑨ Boxelder tree (24") in center rear:
 - Tree is 9.5ft from rear of house and leans over house. Tree presents a parental long term hazard to the house & should be removed.

I have inspected the above trees and wrote a description of the health of each-tree.

Sincerely,

William H Dunn
ISA Certified Arborist.

FACSIMILE TRANSMITTAL SHEET

TO: Michelle	FROM: Patricia Monahan
COMPANY: Historic Preservation	DATE: 12/1/2003
FAX NUMBER: 301-563-3412	TOTAL NO. OF PAGES INCLUDING COVER: 3
PHONE NUMBER: 301-563-3400	SENDER'S FAX NUMBER: 301-588-1747
RE: Tree Inspection Report and Citation	

- URGENT
 FOR REVIEW
 PLEASE COMMENT
 PLEASE REPLY
 PLEASE RECYCLE

NOTES/COMMENTS:

On October 29, 2003 I was informed by you that a Certified Arborist must inspect the cut trees on my property and provide a written report regarding the dying and uprooted trees. With the Arborist's report and photos I was to submit a letter requesting a waiver to your office. The same day that the arborist's report arrived, I received this \$500 citation (plus \$1,000 for abatement of this infraction and court costs). The citation was signed and dated on November 19 but was not mailed from the County in a timely manner.

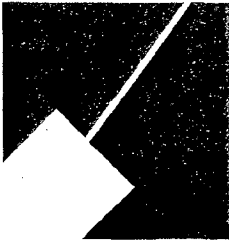
The citation states that I must notify the "County Attorney Office" in writing by December 3. I am requesting a trial date.

I hesitate to request an historic waiver for dying trees that have already been cut down or to file for a permit to remove other threes that are about to fall on the house until after the initial trail date. If trees fall on the house before a permit to remove them can be obtained, will I be cited under 24A-9?

Please advise in writing. Thank you.

[CLICK HERE AND TYPE RETURN ADDRESS]

M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

December 10, 2003

Patricia Monahan
10221 Menlo Avenue
Silver Spring, MD 20910

Dear Ms. Monahan,

I received your fax dated December 1, 2003 and, as requested, I am responding in writing.

Your property received a Notice of Violation from the Department of Permitting Services (DPS) because you were removing trees greater than 6 inches in diameter without a Historic Area Work Permit. In the Capitol View Park Historic District, a Historic Area Work Permit is required for removal of trees that are greater than 6 inches in diameter.

It is my understanding from the DPS inspector that a number of trees had already been taken down by the time he issued the Notice of Violation. To address the violation in the Notice of Violation, you must request retroactive approval of your tree removal from the Historic Preservation Commission. This retroactive approval must be requested by filing a Historic Area Work Permit application. I am attaching a copy of an application to this letter.

I apologize if someone in my office told you that the tree removal could be approved simply by submitting an arborist's report. We do have a process by which trees which are completely dead or which present an immediate hazard can be approved for removal on a staff level, if an arborist's report is submitted. However, this process cannot be used if the trees have already been cut down.

In reviewing your arborist's report, I was not clear which of the trees he listed are still standing and which have already been cut down. Please clarify this when you submit your Historic Area Work Permit application.

Finally, there is no intention by this office to cite you under the Demolition-by-Neglect provision of the Historic Preservation Ordinance, Chapter 24A, Section 9.

Please contact me if you questions on this matter.

Sincerely,

A handwritten signature in black ink that reads "Gwen Wright". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Gwen Wright
Historic Preservation Supervisor

cc: Peter Hrycak, DPS

IN THE DISTRICT COURT OF MARYLAND FOR MONTGOMERY COUNTY

MONTGOMERY COUNTY, MARYLAND

Plaintiff

v.

PATRICIA MONAHAN

Defendant

*
*
*
*
*
*
*

Citation No. 5Z33755083

CONSENT ORDER FOR ABATEMENT

Upon consent of the parties hereto, it is thereupon, this 23 day of March, 2004, by the District Court of Maryland for Montgomery County

ORDERED that the Defendant shall, within 30 days take the following actions:

1. Obtain a historical area work permit to altering the environmental setting (cutting down trees) of a historical resource on the property located at 10221 Menlo Avenue and comply with any conditions.

FAILURE TO COMPLY WITH THIS ORDER IS PUNISHABLE BY CONTEMPT.

RECEIVED

MAR 23 2004

DISTRICT COURT 06-02
Joe Stapp

Suph

Judge, Sixth District Court for
Montgomery County, Maryland

Patricia Monahan

Defendant

Delish G...

Montgomery County



MONTGOMERY COUNTY
DEPARTMENT OF PERMITTING SERVICES
255 Rockville Pike, 2nd Floor
Rockville, Maryland 20850-4166

NOTICE OF VIOLATION

FOR MONTGOMERY COUNTY, MARYLAND the undersigned issuer, being duly authorized, states that:

On 4-02-2004 the recipient of this NOTICE, _____
Date Recipient's Name

who represents the permittee/defendant, _____
Permittee's Name

is notified that a violation of Montgomery County Code: 24A-6 HISTORIC AREA WORK
PERMIT REQUIRED PRIOR TO REMOVAL OF TREES OR
OTHER CHANGES TO HISTORIC AREA.

exists at: 10221 Menlo Ave. Silver Spring
Location Case #

The following corrective action(s) must be performed immediately as directed. IMMEDIATELY!!!
DO NOT CUT ANY MORE VEGETATION. DO NOT REMOVE
ANY Felled LUMBER. EACH TREE Felled represents a CLASS A
VIOLATION SUBJECT TO FINES OF UP TO \$1000.00 PER VIOLATION.

See attached inspection Report(s) for additional violations and/or required corrective actions.

An inspection fee of \$ _____ is required in addition to any application fee(s).

Re-inspection Date(s): _____ Permit Number: _____ Code/Edition: _____

NOTED Failure to comply with this notice will result in the issuance of one or more \$500.00 civil citations

A STOP WORK ORDER is also issued this date at the above referenced project. All construction activities on these premises must cease immediately. Only those activities required to correct violations may continue. Permission is required to resume construction.

ISSUED BY: MARK NAUMAN [Signature] 4-02-2004
Printed Name Signature Date

Phone No. 301 3703674 5:40 PM

RECEIVED BY: JOHN BEH [Signature] 4-2-04
Printed Name Signature Date

Phone No. 3-588 6456 Sent by Registered Mail/Return Receipt On: _____

RECIPIENT'S SIGNATURE ACKNOWLEDGES RECEIPT OF A COPY OF THIS NOTICE OF VIOLATION

MARK NAUMAN
 Senior Permitting Services Inspector
 Department of Permitting Services
 Division of Building Construction
 255 Rockville Pike, 2nd Floor
 Rockville, Maryland 20850-4166
 301/370-3674 • FAX: 240/777-6258
 TTY: 240/777-6256



mark.nauman@montgomerycountymd.gov
<http://permittingervices.montgomerycountymd.gov>

COURT WAS MARCH 30, TUESDAY
 FRIDAY, APRIL 2 A NEW ANONYMOUS (!)
 COMPLAINT BROUGHT MR. NAUMAN OUT
 AT 5:30 pm. HE DID NOT KNOW
 ABOUT THE PREVIOUS COMPLAINT.

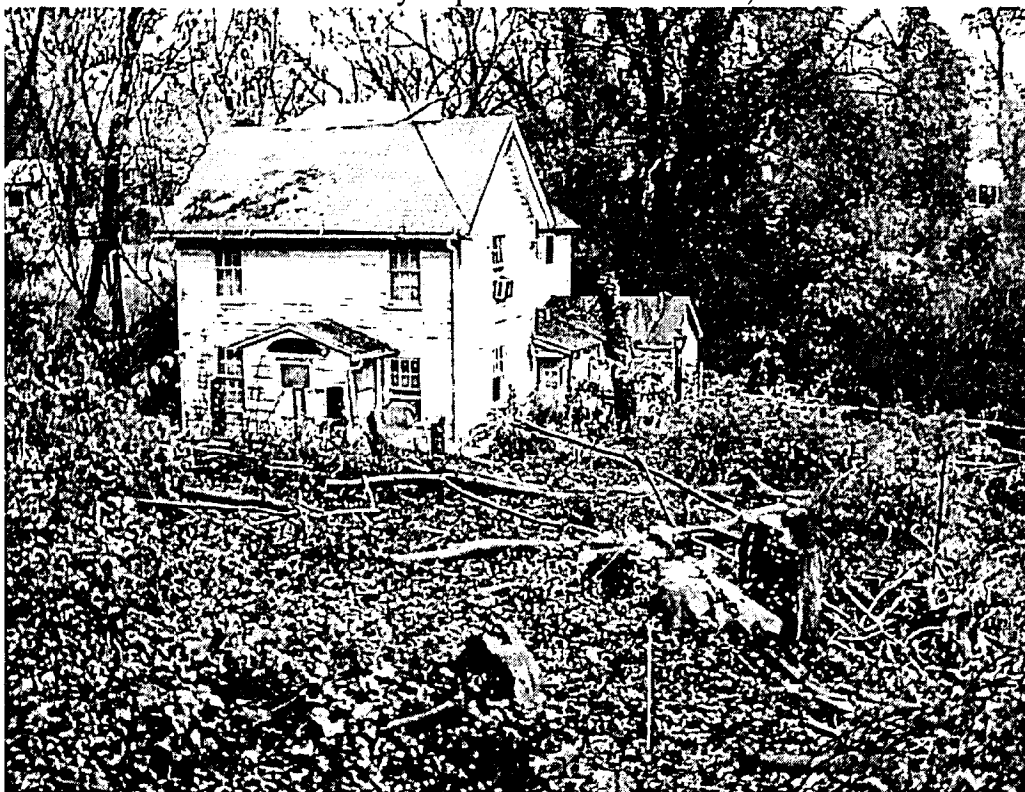
Photos taken by HPC staff on April 19, 2004

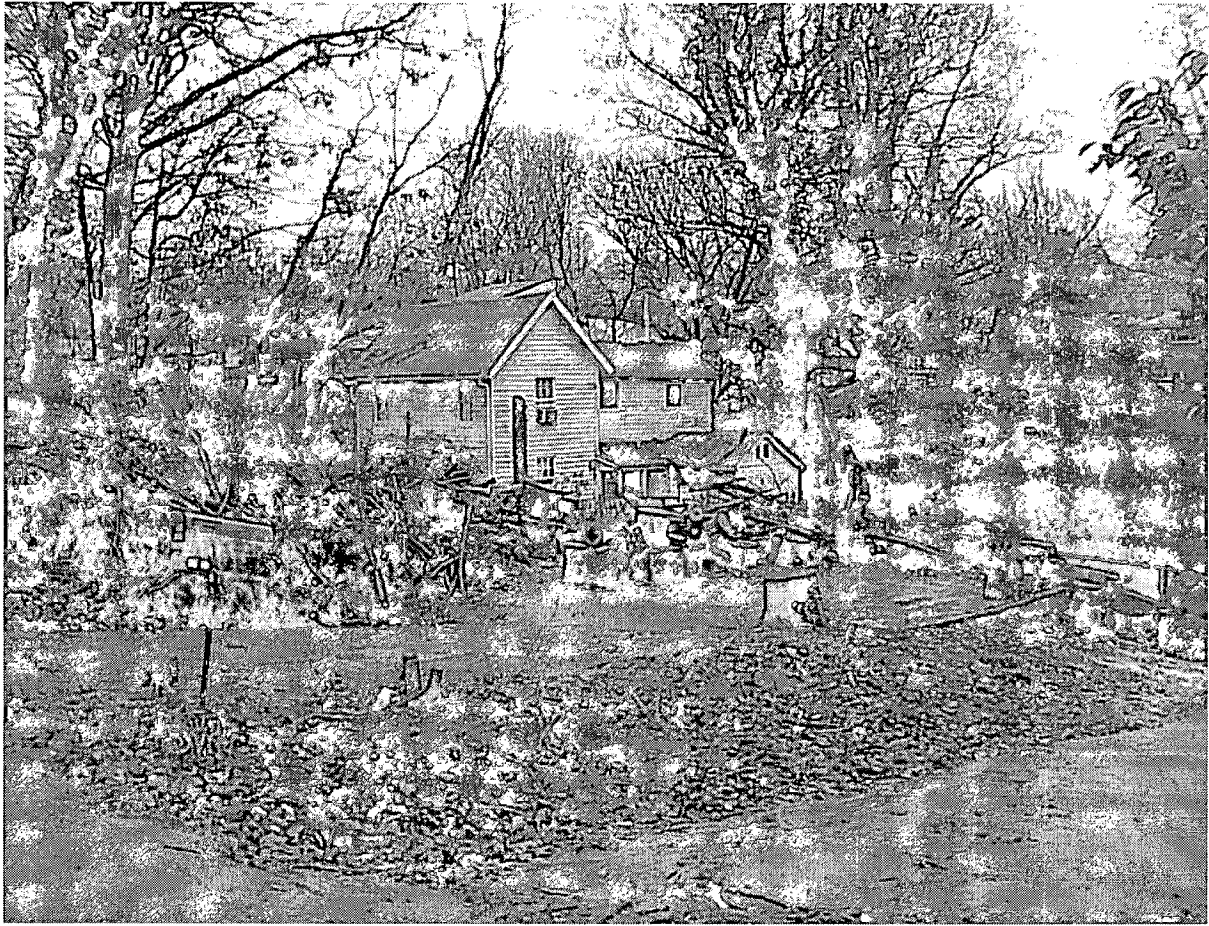






Photos taken by Inspector on November 12, 2003





April 22, 2004

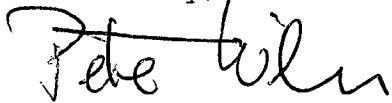
Michele Naru, Historic Preservation Planner
Anne Fothergill, Historic Preservation Planner
Historic Preservation Section
M-NCPPC

RE: Wednesday 4/26/04 Monahan to remove trees at 10221
Menlo Ave. (#31/07-04A)

Dear Planners:

We have lived adjacent to the subject lot for 23 years. Over that time there have been a number of storm related tree fallings from that property that have damaged our trees or property. We were always concerned about the remaining trees that were close to our driveway and the corner of our house. We have no objection to the trees being removed.

Sincerely,



Peter & Susan Wilson
10217 Menlo Ave.
Silver Spring, MD
301-589-4347

Cc P. Monahan